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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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BIRCH STEWART KOLASCH & BIRCH
PO BOX 747
FALLS CHURCH, VA 22040-0747

EXAMINER

HENN, TIMOTHY J

ART UNIT PAPER NUMBER

2612

DATE MAILED: 04/14/2004

A

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/549,044

Applicant(s)

SOGA, TAKASHI

Examiner

Timothy J Henn

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 March 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 13 April 2000 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Drawings

1. The drawings are objected to because of a spelling error in figure 2: change "Flame Number" to "Frame Number". A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Specification

2. The amendment filed on March 8, 2004 in paper number 3 overcomes all previous objections to the specification regarding the abstract, the objections are therefore withdrawn.

Claim Rejections - 35 USC § 102

3. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

4. Claims 1 and 3 are rejected under 35 U.S.C. 102(b) as being anticipated by Kuba et al. (US 5,806,072).

[claim 1]

5. In regard to claim 1, note that Kuba et al. discloses an imaging device for imaging a subject and outputting image data representing an image of the subject (Figure 1; Column 13, Lines 35-61), an image pickup theme setting device for setting an image pickup theme (Column 15, Lines 8-17; The office notes that since images can be

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stored in different subdirectories based on a theme, it is inherent that there will be a theme setting device which is necessary to set the imaging theme), a frame number storage device for storing, for the image pickup theme set by the image pickup theme setting device, a frame number (Figure 53, Column 5, Lines 45-55; Figure 60, Column 31, Lines 14-28; The office notes that for each subdirectory the counter is stored as the name of the last file that has been saved), a frame number incrementing device for incrementing the frame number of a theme every time a subject is imaged (Figure 53, Column 5, Lines 45-55; Figure 60, Column 31, Lines 14-28; The office notes that when saving a new image in a specific subdirectory, a new frame number is taken from the number of the previous directory entry and incremented to obtain a number for the new directory entry as is inherently shown in Figure 53), a storage control device for controlling the frame number storage device such that the incremented frame number is stored for the corresponding image pickup theme (Figure 53, Column 5, Lines 45-55; Figure 60, Column 31, Lines 14-28; The office notes that storing the new image in the appropriate subdirectory for the given theme will inherently store the frame number as the image's file name), and an image data recording control device for recording on a recording medium data representing the frame number incremented by the frame number incrementing device (Figure 53, Column 5, Lines 45-55; Figure 60, Column 31, Lines 14-28; The office notes that storing the new image in the appropriate subdirectory for the given theme will inherently store the frame number as the image's file name), and the image data outputted from the imaging device by the imaging under the image pickup theme set by the image pickup theme setting device with the data and the image

data related to each other (Figure 53, Column 5, Lines 45-55; Figure 60, Column 31, Lines 14-28; The office notes that the image picked-up by the image pickup device is stored on the storage medium in a file whose name is based on the incremented frame number).

[claim 3]

6. Claim 3 is a method claim corresponding to the apparatus claim 1. Therefore, claim 3 is analyzed and rejected as previously discussed with respect to claim 1.

Claim Rejections - 35 USC § 103

7. Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kuba et al. (US 5,806,072) in view of Parulski et al. (US 5,633,678).

[claim 2]

8. In regard to claim 2, note that Kuba et al. discloses a digital still camera, which meets the requirements, set forth in claim 1 as discussed above. Therefore, it can be seen that Kuba et al. lacks an image pickup theme setting device which comprises an image pickup theme storage device for storing a plurality of image pickup themes and an image pickup theme selection device for selecting the image pickup theme out of the image pickup themes stored in the image pickup theme storage device.

9. Parulski et al. discloses an electronic camera, which captures images and categorizes them according to subject matter or "themes" stored by the camera and a theme selection device (Column 4, Line 56 – Column 5, Line 31) allowing the user to easily identify an image based on its category tag or "theme" stored along with the

image that was selected by the user prior to photography. It would have been obvious to one of ordinary skill in the art at the time the invention was made to include a theme selecting device such as that disclosed by Parulski et al. to allow a user to select a theme prior to photography for storage along with the image that will allow the user to more easily identify the image later on.

Response to Arguments

10. Applicant's arguments filed March 8, 2004 have been fully considered but they are not persuasive.

11. In regard to the claims, the applicant argues that Kuba et al. and Kuba et al. in view of Parulski et al. fail to show every limitation, specifically the feature of a frame number storage device that stores "a last frame number of a plurality of frame numbers assigned at the time of imaging". The applicant argues that in the claimed invention, "only the last frame is assigned to each image pickup theme" is stored, and that in Kuba et al. "a plurality of continuous or consecutive frame numbers are stored in each directory as the image's file name". The office notes that although Kuba et al. teaches the storing of each frame number that has been taken, the claims do not limit the storage of the frame numbers to only the last frame number and that by storing each frame number in the form of a image's file name the number of the last frame to be taken will be stored along with all of the previous frame numbers.

12. The applicants further argue that Kuba et al. lacks the feature of "storing, for the set image pickup theme, a last frame number of a plurality of frame numbers assigned

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at the time of imaging” on the basis that Kuba et al. lacks “an image pickup theme setting device which comprises an image pickup theme storage device for storing a plurality of image pickup themes and an image pickup theme selection device for selecting the image pickup theme out of the image pickup themes stored in the image pickup theme storage device” as admitted by the office. However, the fact that Kuba et al. does not disclose an image pickup theme setting device of the structure claimed in claim 2, does not mean that there exists no image pickup theme setting device for which an image pickup theme can be set.

13. Kuba et al. discloses that separate folders can be used for the storing of pictures of different themes (Column 15, Lines 13-18; Column 20 Lines 24-39). Further, Kuba et al. also discloses a manual setting device for manually specifying the image name prefix or the name of a directory (Figure 153A-153E; Figure 154; Column 51, Line 51 – Column 52, Line 10). By manually naming a subdirectory in which images will be stored with a descriptive name, such as BIRTH, it is noted that a theme is inherently set for that subdirectory. The office notes that by associating a theme with a subdirectory (either explicitly by naming the subdirectory, or implicitly by creating a new subdirectory when related images are to be taken), and by keeping a separate frame counter (e.g. by saving the previously taken frame numbers as a component of the file names of the previously taken images) for that subdirectory the claimed feature of a frame number storage device which stores the last frame number of a plurality of frame numbers assigned at the time of imaging for each image pickup theme is inherent.

Conclusion

14. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

15. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Timothy J Henn whose telephone number is (703) 305-8327. The examiner can normally be reached on M-F 7:30 AM - 5:00 PM, alternate Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wendy R Garber can be reached on (703) 305-4929. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

TJH
3/31/2004



NGOC-YEN VU
PRIMARY EXAMINER